

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
(Northern Division)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Case No. 3:22-cv-00686-HTW-LGI
	)	
v.	)	
	)	RESPONSE TO STATUS CONFERENCE
THE CITY OF JACKSON, MISSISSIPPI,	)	
	)	
Defendant.	)	
_____	)	

After I listened to the wiser side of my brain, I appointed Ted Henifin to be the helmsman to navigate the City of Jackson, Mississippi, through its water crisis. I have not been disappointed. He clearly is the man for the job, as any fair-minded, knowledgeable observer would attest.

Once handed this water case, I had to immerse myself in the study of clean water production, from the capture of contaminated, soiled water to its clear, clean state to be distributed to a waiting citizenry. Henifin was vital to this learning curve, generously providing to me valuable literature and orally sharing his vast knowledge. He also treated me to tours of the two Jackson water plants with their at-will, highly motivated, experienced personnel.

He did more. He transported me to “crisis spots”. The first water crisis spot to which he directed my attention was located off Atkins Road. There, after fighting hazards of mud and numerous water puddles, we arrived at “the leak”, a massive pipe rupture which was spurting from a 48-inch culvert approximately five million gallons of water per day, enough to serve the daily needs of 50,000 citizens, into the ground! This water recently had been purified at one of the plants and headed to homes for consumer use. The cost to Jackson in lost revenue was gigantic, about

\$6,700 per day. The leak, I was told, had persisted over a very long time, about SEVEN YEARS! A handy calculator flashed some disturbing numbers: five million gallons a day at \$6,700 per day means a loss of \$200,000 a month; \$2.4 million a year; and a grand total of \$16.8 million over seven years.

The City says it did not know the extent of this leak, nor the length of time it had existed, even though the City should have known from its instruments, that massive amounts of water were not being delivered to the homes.

Regardless, whether the City was aware of that enormous rupture, or exactly how long it took for that lost purified water to form an artificial lake approximately thirty feet deep and create a huge, breathtaking waterfall over seven feet high, Henifin, his round-the-clock-crew, and his expeditiously-procured contractor managed to fix the rupture in approximately sixty days after locating it.

This accomplishment, ALONE, should elevate Henifin and his dedicated crew to heroic status...but the staunchest of his critics can only see Race and Outsider Prejudice. "Ted is white," they protested. Jackson, they said, is more than 80% African American. As such, they reasoned, Jackson should have its water savior an African American and, more, someone from Jackson itself. These critics inexplicably did not appreciate the inexcusable impact of these racially-charged words uttered in a deep-South State they have attacked all their lives for racism. Lady Justice must have experienced a stabbing pain from these dagger-like words which are so reminiscent of times when African Americans have been on the receiving end. The speakers of these malignant sentences could not justify their statements. They have no experience in water management, and no logical rationale why an African American would be better suited to fix a lingering problem which has gone unsolved for decades by past African American leadership.

Yes, Henifin is white, not African American; his detractors did get that right. And, he is not a native Jacksonian, nor Mississippian, for that matter. So, his critics win on that score also. Apparently, however, their victory on these two insignificant points have blinded them to Henifin's color-blind passion for his mission and his success thus far over the very short time he has been on the job (November 29, 2022, until now). They did not quarrel with Henifin's qualifications. They did not question his resolve or commitment. They did not dispute the overall progress he has engineered in the few months he has been on this mission. They did not represent, nor even mention, the numerous citizens who are grateful for what Henifin has achieved over this short time<sup>1</sup>. Henifin has saved Jackson millions just for fixing "the leak" alone, but even those saved "green" backs have failed to clear the vision of those who can only view accomplishment through the lenses of black and white.

Jackson is better than that. The majority of its citizens have remained loyal to this metropolis, convinced that they will solve the crime problem which has placed Jackson number one in homicides per capita in 2021 and 2022; the fastest shrinking city in the United States as described in the latest United States Census Bureau data<sup>2</sup>, because of white and black flight premised on fears generated by a perceived lack of police protection; a declining tax base; and a challenging water/sewage system, which for decades, has frustrated Jacksonians and caused too many to go elsewhere.

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<sup>1</sup> See a representative sample of such Letters of Support, attached hereto as "Exhibit 1".

<sup>2</sup> This data encompasses a snapshot of local populations nationally from July 2021 to July 2022.

Back to my tour with Henifin on the water/sewage dilemma. Although he repaired “the leak”, he informed me at the time that Jackson had a then uncalculatable number of leaks that needed to be located and patched. To date, he and his crew have patched over 200 leaks.

Henifin also showed me sewage problems, where big pipes were stopped up with debris. I saw raw sewage seeping out of the ground, next to a retirement facility and near a public school. Disturbed, I inquired how many such raw sewer escapes did Jackson have. Over 257, I learned. “Why hadn’t Jackson drilled out these pipes?”, I asked. Because the three City trucks for such were in the repair shop and the City had not secured their release. Mind you, raw sewage is backing up in the streets, yards and homes, posing a health hazard of a worrisome magnitude.

On the dates of July 12, 2023, and July 13, 2023, this court held a status conference, allowing members of the citizenry to air their grievances over Henifin’s progress in alleviating the water plants’ woes. This court expected the speaker-attendees to come armed with quantifiable facts, fair assessments of progress thus far, and reasonable expectations for the foreseeable future. Not so! Overall, the presentations from Henifin’s critics were either uninformed, short-sighted, clearly political, well-intentioned but naïve, or (as earlier discussed) racist.

Each speaker addressed the need for more transparency; however, when asked by this court to define the term, none was able properly to articulate its meaning. Since November 29, 2022, the effective date of the Interim Stipulated Order, Henifin has endeavored to be visible, accessible, and transparent to the public. He has personally spoken at many public events, as attested by the attached list of thirty-three (33) such public speaking engagements<sup>3</sup>.

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<sup>3</sup> See “Exhibit 2”.

A number of speakers also expressed their immense disapproval that the water/sewage Call Center had been set up in Pearl, Rankin County, instead of within the Jackson City limits. Henifin's response was persuasive. JXN Water, his company, has contracted with Protel, Inc. to handle customer calls starting on June 5, 2023. From that date to July 10, 2023 (5 weeks), the Call Center has had 10,984 incoming calls (an average of 313 per day). The average "wait time" has been 1 minute and 46 seconds, and average "talk time" 3 minutes and 35 seconds. Prior to this contract with Protel, Jackson City employees, aided by temporary staff, had been handling consumer calls. Their statistics were unimpressive: for the period of March 1, 2023, through April 1, 2023, the Call Center received approximately 682 calls per day. The average "wait time" was 4 hours and 9 minutes. Over 30% of the calls were abandoned after the callers were placed on hold longer than 10 minutes. What troubling statistics! Perhaps, Henifin's opponents did not place calls to the Call Center when it was under the control of the City of Jackson.

Two Deputy Chiefs of the Jackson Fire Department ("JFD") offered their criticisms. Their core contentions were that a fire had occurred at a Jackson residence under Henifin's watch when the adjacent fire hydrant was dry, and that the subject fire hydrant was not properly marked as dry. Henifin takes issue with the statement that the fire hydrant in question was "under his watch". This court then questioned the two firefighters about Jackson's many fire hydrants. One of the firefighters was asked how many fire hydrants are located in Jackson; how many are tested each year; how many, on average, are malfunctioning; and whether he had any documentation to corroborate his testimony. He could not provide any satisfactory answers to these questions. He acknowledged that he could not point to the location of the fire department's past records on inspection and testing. Answers to some of these questions were provided by the data compiled by "Wachs Water", a company which had been granted a contract with JXN Water in January 2023,

to locate, assess, and inventory valves and hydrants. Tellingly, while the City originally estimated that the City contained some 4500 hydrants in its system, Wachs has identified nearly 8000 hydrants, to date. This mapping effort is ongoing. Henifin currently is endeavoring to collaborate with the JFD on marking and inspecting the City's many fire hydrants. Henifin's efforts are making a difference Jacksonians should appreciate.

Remarkably, the irate orators accused Henifin of hiring only white employees. Here are the actual statistics: eighteen (18) of Henifin's group of twenty (20) staff employees are African American. His leadership team is comprised of six (6) people, four (4) of whom are African American. His critics again cited misinformation to the court.

The misinformation continued. Several stated that Henifin's second-in-command, Jordan Hillman, a white female, was being paid 300% more than her previous City employee salary. Error. She is being paid 185% above her previous salary with the City, not 300%, a figure which was even repeated in the news. This court had approved the new salary for Hillman, as Chief Operating Officer of JXN Water. For good reasons: Hillman is vital to the intellectual challenges presented by Jackson's water crisis; she works around the clock, often having to address water emergencies in the middle of the night. Her job with JXN Water is temporary. After sharp questions by the court, the City finally admitted that once JXN Water leaves the City, the City will not guarantee that Hillman will have a job with the City, no matter the expertise she has and will continue to develop in her challenging position with JXN Water. The same applies to all current employees of JXN Water. One would reason that the City would be delighted to rehire all of these employees, who would have acquired more specialized experience. But, alas, the City marches to a different tune.

The court's response herein is not intended to deter knowledgeable and honest criticisms of the ongoing efforts to combat the water crisis; instead, this court and Mr. Henifin welcome meaningful observations and suggestions. A few of the critics' proposed approaches have already been implemented by Mr. Henifin and his team. For instance, he already plans to publish a city map detailing areas currently being addressed and areas to be addressed on a certain time schedule. He plans to enlarge his schedule addressing the public and answering questions. He is contracting with a Communications Specialist to offer in-person and virtual tours of Jackson's water plants. Further, he encourages neighborhoods to form water/sewage patrols expeditiously to report local problems therein. Henifin has complied in every respect with the duties expected of him by this court, duties which include preparing a public Quarterly Report on what JXN Water has achieved during the quarter, and what obstacles have been observed during the same time-period. In this Report, Henifin is expected to comply with the court's direction to highlight the federal dollars received and expended; the identity and qualifications of contractors hired for various projects; the timelines and accepted bids for approved projects; and detailed information about lead in the water which the public does not understand. Later, Henifin is to pursue a program to educate the public how water bills are calculated, and what progress has been made in identifying funds to unburden the citizenry from having to finance the cost of new piping linking City pipes to those owned by the homeowner.

This court and Henifin recognize the gravity of this monumental undertaking. Intertwined with the challenge of repairing a long-broken water system, which will not be remedied overnight, we are faced with the challenge of creating confidence in Jackson's water. Diligently, we are working towards these ends.

THIS the 21st day of July, 2023.

/s/HENRY T. WINGATE  
UNITED STATES DISTRICT JUDGE